

Remarks

Applicant thanks the Examiner for carefully considering the subject application.

Formal Matters

Claims 8-13, 15-19, 21-25, 27-31, and 33-37 have been amended to correct various typographical errors.

Regarding the Restriction Requirement

Applicant maintains that the restriction requirement is improper and again requests that it be withdrawn. The Office action fails to indicate whether the requirement has been made final, and Applicant respectfully requests clarification.

Under 35 U.S.C. 121, restriction is proper only if the examiner provides reasons and/or examples to support conclusions. MPEP 803. As previously indicated, the September 20, 2005 restriction requirement does not include any reasons and/or examples for the restriction requirement. Likewise, the November, 28, 2005 Office action does not include any reasons and/or examples for the restriction requirement. Instead, Examiner provides the following conclusion:

ent. The reasoning behind the requirement is because applicant has disclosed and claimed multiple embodiments that would all require different searches and consideration.

Applicant respectfully submits that Examiner does not provide reasons and/or examples to support the conclusion, but instead identifies the conclusion.

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As such, Applicant traverses the restriction requirement as improper for lack of support. Applicant reserves the right to provide additional arguments against restriction, should the restriction requirement be maintained, once Applicant is made aware of Examiner's reasons for requiring the restriction.

Based on the foregoing comments, Applicant respectfully requests reconsideration of the restriction requirement.

Rejections under 35 USC § 102

Before discussing the Office action dated November 28, 2005, Applicant believes that it may be helpful to review some background information. The present application discloses a method for operating a valve in a cylinder of an internal combustion engine. Specifically, the present application relates to an intake and/or exhaust valve (see for example page 9, lines 15-19 of Applicant's original application).

Claims 1 - 3, and 6

Claim 1 was rejected under 35 U.S.C. 102(e) as being anticipated by Kawamura et al. (U.S. Pat. No. 6,620,076). The Office action asserts that Kawamura teaches a method for operating at least a valve in at least a cylinder of an internal combustion engine. However, Kawamura teaches stopping fuel injection via the fuel injectors 15 (see for example column 5 lines 64 - 67). Claim 1, on the other hand, includes "at least one of an intake valve and an exhaust valve". Furthermore, Applicant has reviewed Kawamura and can find no mention of a method for deactivating at least one of an intake valve and an exhaust valve during an operating condition of said transmission coupled to said internal combustion engine. As such, Applicant

requests that the rejection of claim 1 and claims 2, 3, and 6 be withdrawn. These arguments also apply to claims 32 and 33.

Based on the foregoing comments, the above-identified application is believed to be in condition for allowance, and such allowance is courteously solicited. If any further amendment is necessary to advance prosecution and place this case in allowable condition, the Examiner is courteously requested to contact the undersigned by fax or telephone at the number listed below.

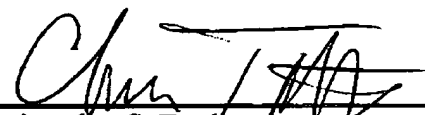
Please charge any cost incurred in the filing of this Amendment, along with any other costs, to Deposit Account No. 06-1510. If there are insufficient funds in this account, please charge the fees to Deposit Account No. 06-1505.

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being sent via facsimile to the U.S. Patent and Trademark Office at (571) 273-8300 on February 28 2006.


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